

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BARBARA MORAES,

Plaintiff,

- against -

APRIL MACKENNA WHITE and ALEXANDER :
WILKE WHITE,

Defendants. :
----- X

:
: 21 Civ. 4743 (PAE)
:

:
: **CONFIDENTIALITY**
: **STIPULATION AND ORDER**

It is hereby stipulated and agreed by and between the parties to this litigation, through their respective counsel, as follows:

1. This Stipulation (hereinafter "Stipulation") applies only to those documents which contain or reflect confidential medical information pertaining to the health and/or medical or psychiatric condition of the plaintiff herein, and governs the handling of all such documents, as well as inclusion of or references to such documents in pleadings, testimony, transcripts and exhibits, and other written, recorded, or graphic matter (hereinafter "litigation material") which are produced, served, or filed by any party or non-party (hereinafter "the producing person") pursuant to subpoena, discovery procedure, at trial or otherwise in connection with this action and designated by the producing party as "Confidential."

2. Any party furnishing documents or litigation material may designate any parts thereof as Confidential by placing or affixing on such material (in such manner as will not interfere with the legibility thereof) a "CONFIDENTIAL" notice or the equivalent. Stamping the legend "CONFIDENTIAL" on the cover of any multi-page document shall designate all pages of such document confidential, unless otherwise indicated by the producing person. Such designation by

any producing person shall only be made in a good faith belief that such material contains confidential health and/or medical or psychiatric information.

3. Any party wishing to challenge a confidentiality designation must first consult with the producing party in a good faith effort to resolve the concern. If such consultation does not resolve the concern, an appropriate motion or application to the court may be made.

4. Testimony given at a deposition may be designated as confidential by an appropriate statement at the time of the giving of such testimony or upon subsequent review of the transcript. All deposition testimony shall be treated as confidential until fourteen (14) days after the deposition transcript has been transmitted to counsel to the parties by the court reporter to allow for such designation. Any confidential designation which is omitted inadvertently may be corrected by written notification to opposing counsel within fourteen (14) days after receiving the deposition transcript.

5. Any litigation material designated as “Confidential” pursuant to this stipulation may be used by counsel for the parties receiving it only for the purpose of preparing for and conducting pre-trial proceedings, settlement negotiations, the preparation for trial or trial of this action and any related proceedings, including but not limited to cross-claims or appellate proceedings. The provisions of this Stipulation shall not affect the ability of the parties to introduce such “confidential” material into evidence either through pre-trial or post-trial motions or at trial, subject to the applicable rules of evidence.

6. All litigation material filed with the Court marked as “Confidential” or purporting to reproduce or paraphrase information designated as confidential, and all copies and portions of

copies derived therefrom, shall not be copied, disclosed, distributed, or otherwise used, except in conformity with the following limitations:

If said item is to be filed with the Court, such information shall be filed in sealed envelopes or other appropriate sealed containers on which shall be recorded the title of this action, the case number, the motion or proceeding in which it is intended to be used, the nature of the contents, and a statement substantially in the following form:

CONFIDENTIAL

This envelope (or container) containing the above identified papers filed by [name of party] is not to be opened nor the contents displayed or revealed except by Court Order the Court, the Court's staff, by a Judicial officer, or with the written consent of counsel for [the Responding or Designating party].

7. Except as the Court may otherwise expressly direct and subject the parties to further conditions imposed by this Stipulation, litigation material designated as confidential, and all information derived therefrom, shall be produced only to counsel of record for the parties in this action and may be disclosed by such counsel only to their clients, associates, necessary office personnel, litigation consultants or managers, experts and witnesses or potential witnesses.

8. Prior to being shown any material designated as confidential, any litigation consultant or manager, witness or potential witness shall be given a copy of this Stipulation and shall sign Exhibit A hereto under oath which states, inter alia, that the person (a) has read the Stipulation, and (b) that they may not further disclose, convey, publish, or duplicate any of the said "confidential" information other than under the limited conditions permitted in the Stipulation.

9. If litigation material designated by the producing person as confidential is the subject of any deposition testimony or is attached to, marked, or otherwise incorporated in or included with

a deposition transcript, the deposition transcript itself shall be deemed confidential pending further agreement of the parties or order of the Court and shall be so designated by placing thereon the legend described in paragraph 2 above. Such deposition transcript shall only be filed or lodged, if at all, under seal as described in paragraph 6.

10. Within ninety (90) days of the termination of this action, by either entry of final judgment where no appeal is taken, or upon execution of any agreement for settlement, or the termination of any appeal from a judgment in this action, all litigation material designated by the producing party as confidential and all copies, extracts, or summaries thereof, but excluding any materials which in the judgment of counsel are work product materials, shall, at the option of counsel receiving litigation material, either be destroyed or returned to the party that produced or otherwise disclosed it.

11. Litigation material contained in the files of this Court which are entitled to protection under this stipulation shall remain sealed until and unless this Stipulation is modified by further

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stipulation or order of the Court.

Dated: New York, New York
January 18, 2022

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Attorneys for Defendants

SO ORDERED:


Paul A. Engelmeyer, U.S. D.J.

January 19, 2022
Date

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	
BARBARA MORAES,	: 21 Civ. 4743 (PAE)
	: :
Plaintiff,	: DECLARATION OF NON-PARTY
	: ACKNOWLEDGING RECEIPT OF
- against -	: CONFIDENTIALITY
	: <u>STIPULATION AND ORDER</u>
APRIL MACKENNA WHITE and ALEXANDER :	:
WILKE WHITE,	: :
	: :
Defendants.	: :
-----X	

I, _____, declare as follows:

1. I have read and am familiar with the terms of the Confidentiality Stipulation (“Stipulation”) governing disclosure of information designated as confidential in the above-captioned case.

2. I have been instructed by counsel for _____ that any information designated as “Confidential” shall be kept confidential and only be used in the preparation for trial and pre-trial proceedings in this case, and that I may not further disclose, convey, publish, or duplicate any of said “Confidential” information other than under the limited conditions permitted in the Stipulation.

3. I agree to abide by all the terms of the order and not to reveal or otherwise communicate any of the confidential information disclosed to me pursuant thereto to anyone except in accordance with the terms of said Stipulation. I agree not to make use of any confidential information other than for purposes of this litigation.

4. I agree to return to producing counsel any and all documents in my possession delivered to me under the terms of said stipulation (and all copies thereof) and destroy any notes in my possession containing any confidential information covered by the terms of this stipulation.

I declare under penalty of perjury under the laws of the State of _____ that the foregoing is true and correct.

Executed this ____ day of _____, 202__ at _____.

Signature

Printed Name